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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,839	03/12/2004	Randy L. Hoffman	200316546-1	8519

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EXAMINER

NGUYEN, DILINH P

ART UNIT	PAPER NUMBER
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2814

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

EX

Office Action Summary	Application No. 10/799,839	Applicant(s) HOFFMAN ET AL.	
	Examiner DiLinh Nguyen	Art Unit 2814	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,10,11,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) 2-5,8,9,12,13 and 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,10,11,14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/8/06, 3/3/06, 6/13/05, 3/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 6/13/05 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Election/Restrictions

1. Applicant's election with traverse of Embodiment 3, claims 1, 6-7, 10-11 and 14-15 in the reply filed on 8/11/06 is acknowledged. The traversal is on the ground(s) that if the search and the examination can be made without serious burden, the examiner must examine it on the merits. This is not found persuasive because:

a) The inventions are in different fields of search which have different case law basis for examination.

b) Non-restriction would mean that if one of the inventions were held to be unpatentable then the other would also be inherently held to be unpatentable.

Therefore, restriction is proper since there are apparently different inventive concepts in making the device and in the device itself.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 6-7, 10-11 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masashi et al. (J.P. 2002-076356) in view of Ishihara et al. (U.S. Pub. 2004/0116617).

Regarding claims 1, 6, 10 and 14, Masashi et al. disclose a semiconductor device, comprising:

a drain electrode 13;

a source electrode 12;

a channel 11 contacting the drain electrode and the source electrode, wherein the channel made of zinc oxide and doped with 3 mored transition-metals element (abstract and 0041); and

a gate dielectric 15 positioned between a gate electrode 14 and the channel 11 (fig. 1A, paragraph 0019).

Masashi et al. do not explicitly disclose that the transition-metals element are germanium, lead, cadmium, tin or lead.

However, Ishihara et al. disclose a device structure comprising: a transition - metals element including germanium, lead, cadmium, tin or lead (paragraph 0008). Therefore, it would have been obvious to one having ordinary in the art at the time the invention was made to select germanium, lead, cadmium, tin or lead in the transition-metals element of Masashi et al. because selection of a known material based on its

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suitability for its intended use supported a prima facie obviousness determination in *Sinclair & Carroll Co., Inc. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945).

- Regarding claims 7, 11 and 15, it would have been obvious to have the one or more compounds of the formula $A_xB_xC_xO_x$, $A_xB_xC_xD_xO_x$ or $A_xB_xC_xD_xE_xO_x$ includes an atomic composition of ratio A:B:C, A:B:C:D or A:B:C:D:E, wherein A, B, C, D and E, are each in a range of about 0.025 to about 0.95, about 0.017 to 0.95 or about 0.013 to about 0.95. Moreover, the ratio range would have been obvious to an ordinary artisan practicing the invention because, absent evidence of disclosure of criticality for the range giving unexpected results, it is not inventive to discover optimal or workable ranges by routine experimentation. *In re Aller*, 220 F.2d 454, 105 USPQ 233, 235 (CCPA 1955). Furthermore, the specification contains no disclosure of either the critical nature of the claimed dimensions of any unexpected results arising therefrom. Where patentability is aid to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen dimensions are critical. See *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed, Cir. 1990).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DiLinh Nguyen whose telephone number is (571) 272-1712. The examiner can normally be reached on 8:00AM - 6:00PM (M-F).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on (571) 272-1705. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DLN



PHAT X. CAO
PRIMARY EXAMINER